

INTELLIGENCE & ANALYSIS DISCLOSURE OFFICE

Freedom of Information Act (FOIA) Suspense Tracker

FOIA File No.: 10-IA-0013 (b) (6) _ Date: November 20, 2009

To: I&A KMD/SLFC/DTAD/PI/CIWW

Suspense Date (Information required in Disclosure Office): 11/30/09

The Disclosure Office received a FOIA request from: (b) (6) ACLU

Requester is seeking the following:

An expansive list of records relating to surveillance activities of DHS, to include gathering of information related to "expressive activity" in the State of Washington (See original request and search parameters for additional information).

If you have any questions regarding this request, please call Quinton Mason at (202) 447-4265.

Attachment(s): Original Request
Search Requirement
FOIA Exemptions
Cost Sheet

//Signed//

Signature

INSTRUCTIONS FROM DISCLOSURE OFFICE (CHECK ALL THAT APPLY)

☒ **Search your records for responsive documents, and if documents are located, please provide one (1) **redacted** copy and one (1) **un-redacted copy** to the I&A FOIA Request POC, Will Spivey.**

☐ **Please review responsive document(s) for release to requester.**

☐ **Upon Completion of your review, please return the document(s) to I&A Disclosure Officer.**

☒ **Please record the time spent reviewing coordination on the request and the number of pages on the enclosed **Cost Sheet**.**

COMMENTS FROM I&A: (Check all that apply)

☐ **Total Release**

☐ **Recommend withholding information under FOIA exemption(s) _____, have bracketed the information recommended to be withheld and placed appropriate exemption(s) in the margin(s).**

☐ **Recommend withholding the entire document(s) under the following exemption(s): _____**

☒ **Indicate the name of unclassified database(s) used for search for responsive information.** internal CIPD files

☒ **Indicate the name of classified database(s) used for search for responsive information.** internal CIPD files

☒ **NO RECORDS – Our search failed to locate responsive information**

☐ **We believe other I&A office(s) Operations, Preparedness, DHS office(s), or other agencies should be involved in processing this request: It is recommended that you contact: _____**

The following statement must be signed by the appropriate section chief.

I certify that all appropriate files have been searched and all responsive information has been reviewed, copied and provided to the I&A Disclosure Office.

(b) (6) _____ Branch Chief, CI Programs Division 12/03/2009
Name/Title Date

I&A DISCLOSURE OFFICE FREEDOM OF INFORMATION ACT (FOIA) EXEMPTIONS

FOIA Exemption 1 provides that an agency may exempt from disclosure matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order.

FOIA Exemption 2(high) protects information applicable to internal administrative and personnel matters, such as operating rules, guidelines, and manual of procedures of examiners or adjudicators, to the extent that disclosure would risk circumvention of an agency regulation or statute, impede the effectiveness of an agency's activities, or reveal sensitive information that may put the security and safety of an agency activity or employee at risk. Whether there is any public interest in disclosure is legally irrelevant. Rather, the concern under high 2 is that a FOIA disclosure should not benefit those attempting to violate the law and avoid detection.

FOIA Exemption 2(low) protects information applicable to internal administrative personnel matters to the extent that the information is of a relatively trivial nature and there is no public interest in the document.

FOIA Exemption 3 protects information specifically exempted from disclosure by another statute, if the statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) established particular criteria for withholding or refers to particular types of matters to be withheld

FOIA Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. The courts have held that this subsection protects (a) confidential commercial information, the disclosure of which is likely to cause substantial harm to the competitive position of the person who submitted the information and (b) information that was voluntarily submitted to the government if it is the kind of information that the provider would not customarily make available to the public.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(A) protects from disclosure records or information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement proceedings.

Exemption 7(B) provides protection for records or information compiled for law enforcement purposes when the disclosure would deprive a person of a right to a fair trial or an impartial adjudication.

Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate.

Exemption 7(D) pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to disclose the identities of confidential sources.

Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

FOIA Exemption 7(F) permits the government to withhold all information about any individual when disclosure of information about him could reasonably be expected to endanger the life or physical safety of any individual. This exemption also protects physical security at critical infrastructure sites.

To All Directors and/or Designee:

Please conduct a thorough search of all databases within your directorate for responsive information pertaining to this request. Any information located that mentions the subject of this request should be copied and forwarded to this office for review. Please be assured that providing the information to this office **does not** indicate the information will be released in its entirety to the requester.

You are required pursuant to the Freedom of Information Act (5 C.F.R. Section 552) and/or the Privacy Act (5 C.F.R. 552a) to provide information to this office including confidential information. You are asked to review the information in order to recommend

a determination for the proper disposition. If you determine that the information should be withheld in its entirety, please indicate at the bottom of the Freedom of Information Act (FOIA) Suspense Tracker form. A copy of exemptions has been provided which prohibits the release of a portion of or the entire requested information.

“No Records” should be checked on the Suspense Tracker form only if you are absolutely sure that there are no records in your directorate’s possession. Pursuant to the Freedom of Information and Privacy Acts, a requester has the right to administrative appeal. An administrative appeal could result in a law suit if the requester challenges on the basis of inadequate search for information.

If you have questions or need assistance or guidance in the identification of responsive information, please do not hesitate to either email me at Quinton.mason@dhs.gov or give me a call at 202-447-4265.

Thank You,

//Signed//

Quinton S. Mason

FOIA Officer

Office of Intelligence and Analysis